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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,569	12/05/2001	Leo Diehm	5351-05	8006

7590 06/24/2004  
Emhart Glass Manufacturing Inc.  
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EXAMINER

VINCENT, SEAN E

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

cf

<b>Office Action Summary</b>	<b>Application No.</b> 10/005,569	<b>Applicant(s)</b> DIEHM ET AL.	
	<b>Examiner</b> Sean E Vincent	<b>Art Unit</b> 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: A “pressure setting means” as recited in claim 4 was not disclosed in the specification.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification does not contain support for “said pressure setting means”.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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6. Claim 1 recites the limitation "the retracted position" in the last line. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 1 is further indefinite because it recites twice "a predetermined time" (lines 16-17 and line 26) and it does not appear to refer to the same predetermined time.

8. Claim 4 recites the limitation "said pressure setting means" in line 2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 5 recites the limitation "the molds" in the last line. There is insufficient antecedent basis for this limitation in the claim (only one mold had antecedent basis).

10. Claim 5 would read more clearly if in line 14 "where" was changed to "at which".

11. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: a control means or pressure setting means to accept an input means.

12. Claims 3 and 4 are further indefinite because "said predetermined time" could be referring to either or both of the predetermined times stated in claim 1.

### ***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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14. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Rodriguez-Wong et al (US 5807419). Col. 4, lines 3-9 taught a blow head fixed by a holding lock. Col. 3, lines 32-48 taught a blow tube. Col. 5, lines 32-67 teach the operation of the displacement means (pneumatic cylinders) to raise and lower the blow head. Rodriguez-Wong did not teach holding the blow head at a selected vertical distance or an exhaust position for a predetermined time. Note that the manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, see *In re Casey*, 152 U.S.P.Q. 235 (CCPA 1967).

#### ***Allowable Subject Matter***

15. Claims 2-4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

16. Claim 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

17. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not teach or fairly suggest a blow head assembly as claimed including a control with input means for inputting a selected vertical distance or a predetermined time as claimed. The prior art does not teach or fairly suggest a blow head assembly as claimed including a means for determining when the parison has been blown as claimed. The prior art does not teach or fairly suggest a method of blowing a parison as claimed including detecting the

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point where the parison is blown as claimed. It would not have been obvious to add these modifications to the arrangement of Rodriguez-Wong et al.

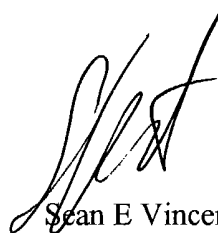
***Conclusion***

18. The prior art made of record and not relied upon is cited to further show the state of the art.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E Vincent whose telephone number is (571) 272-1194. The examiner can normally be reached on M - F (8:30 - 6:00).

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sean E Vincent  
Primary Examiner  
Art Unit 1731

S Vincent